

## § 25.303

States arising out of Coast Guard activities under the Federal Tort Claims Act.

### § 25.303 Procedure.

A claim shall be presented and processed in accordance with 28 CFR Part 14. Should there be a conflict between the provisions of 33 CFR Part 25, Subpart A and the Department of Justice regulations in 28 CFR Part 14, the Department of Justice regulations govern.

## Subpart D—Military Claims

AUTHORITY: 10 U.S.C. 2733; 49 CFR 1.46(j).

### § 25.401 Scope.

This subpart prescribes the requirements for the administrative settlement of claims against the United States arising out of the activities of the Coast Guard under the Military Claims Act.

### § 25.403 Claims payable.

A claim arising at any place caused by military personnel or civilian employees of the Coast Guard acting within the scope of their employment, or otherwise incident to noncombat activities of the Coast Guard, whether or not negligence or intentional tort is shown, is payable under this subpart for:

- (a) Damage to or loss of real property, including damage or loss incident to the use and occupancy of real property by the Coast Guard;
- (b) Damage to or loss of personal property, including property bailed to the Coast Guard;
- (c) Damage to or loss of registered or insured mail while the mail is in the possession of the Coast Guard even though damaged or lost by criminal act; or
- (d) Death or personal injury.

### § 25.405 Claims not payable.

A claim is not payable under this subpart if it:

- (a) Results from action by an enemy or directly or indirectly from an act of the armed services of the United States in combat;
- (b) Is purely contractual in nature;

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- (c) Results wholly or partly from the negligent or wrongful act of the claimant, claimant's agent, or claimant's employee, unless comparative negligence is applicable under local law;
- (d) Is for death or personal injury of a United States employee for whom benefits are provided under the Federal Employees' Compensation Act, Longshoremen's and Harbor Workers' Compensation Act, or any other system of compensation where contribution is made or insurance premiums paid directly or indirectly by the United States on behalf of the injured employee;

- (e) Is cognizable under Subpart C or E of this part;
- (f) Is for reimbursement for medical, hospital, or burial services furnished at the expense of the United States;
- (g) Is one of the following exceptions to the Federal Tort Claims Act, 28 U.S.C. 2680 (a), (b), (e), (f), (h), or (j). (However, a claim falling within the exception contained in 28 U.S.C. 2680 (b) is payable when not prohibited by paragraph (i) of this section.);
- (h) Results from a specific risk which the claimant assumed in writing before the incident giving rise to the claim;
- (i) Is for damage to or loss of a letter or postal matter while in the possession of the Postal Service;
- (j) Is for rent, or other payments involving the acquisition, use, possession, or disposition of real property or interests therein by and for the Coast Guard except as provided in § 25.403(a);
- (k) Is for the taking of private property by trespass except for actual physical damage; or
- (l) Is for personal injury or death of a member or civilian employee of the armed services of the U.S. whose death or injury was incident to service.

[CGD 80-033, 46 FR 27109, May 18, 1981, as amended by CGD 87-008b, 52 FR 25218, July 6, 1987]

### § 25.407 Time limitation on claims.

- (a) A claim may be settled only if presented in writing within two years after it accrues, except that if it accrues in time of war or armed conflict, or if war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not more than two years